

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
161 CAPITOL STREET
AUGUSTA, MAINE 04333-0137
APRIL 13, 2010 MINUTES
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**State of Maine
Board of Licensure in Medicine
137 State House Station, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of April 13, 2010**

BOARD MEMBERS PRESENT

Gary R. Hatfield, M.D., Board Secretary
Cheryl D. Clukey
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
Bettsanne Holmes
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D.
Jean M. Greenwood, Board Coordinator
Dan Sprague, Assistant Executive Director
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

HEARING OFFICER

James E. Smith, Esq.

Sheridan R. Oldham, M.D. was excused. David D. Jones, M.D. was recused from the Adjudicatory Hearing.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S.A. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S.A. § 1711-C.) The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by POWERPoint projection.

PUBLIC SESSIONS

9:09 a.m. - 9:10 a.m.
9:40 a.m. - 9:41 a.m.
10:53 a.m. - 10:54 a.m.
11:44 a.m. - 12:36 p.m.
2:17 p.m. - 4:59 p.m.
5:12 p.m. - 6:36 p.m.
6:46 p.m. - 8:06 p.m.
8:06 p.m. - 8:08 p.m.

EXECUTIVE SESSION

9:10 a.m. 9:40 a.m.
9:41 a.m. - 10:53 a.m.
11:06 a.m. 11:44 a.m.

RECESS

10:54 a.m. - 11:06 a.m.
12:36 p.m. - 2:17 p.m.

PURPOSE

Call to order
Unset Hearing
Public Session
Public Business
Adjudicatory Hearing
Adjudicatory Hearing
Adjudicatory Hearing (adjourned @ 8:06 P.M. and continued.)
Adjournment

Progress Reports
Progress Reports & New Complaints
New Complaints & Assessment & Direction

Recess
Board Members Clear Room for Lunch and Pre-hearing

4:59 p.m. – 5:12 p.m.	motions.
6:36 p.m. – 6:46 p.m.	Recess
	Recess

I. CALL TO ORDER: Dr. Hatfield called the public meeting to order at 9:00 a.m.

A. AMENDMENT TO AGENDA – VIII (B) Consent Agreement – Linda Keniston-Dubocq, M.D.

B. SCHEDULED AGENDA ITEMS:

1. 1:00 p.m. Adjudicatory Hearing in the matter of CR 08-315 Ellen E. Michalowski, M.D.

EXECUTIVE SESSION

II. PROGRESS REPORTS

1. CR 09-456

Ms. Holmes moved to table CR 09-456. Dr. Gleaton seconded the motion, which passed unanimously.

2. CR 09-003 JAMES C. COOPER, M.D.

Dr. Dreher moved to order an Adjudicatory Hearing in the matter of CR 09-003 James C. Cooper, M.D. Dr. Jones seconded the motion, which passed unanimously.

3. CR 09-028

Dr. Dreher moved to dismiss CR 09-028. Ms. Holmes seconded the motion, which passed unanimously.

In this case the patient complained of inadequate care and being unfairly discharged from the practice. A review of the records supports the decisions made regarding care as reasonable. A review of the reasoning to discharge the patient from the practice, along with subsequent reviews by DHHS and the judicial system, document the patient's unacceptable behavior towards staff which prompted the decision.

4. CR 09-029

Dr. Dreher moved to dismiss CR 09-029. Dr. Dumont seconded the motion, which passed unanimously.

The complaint in this case centered on an alleged inadequate informed consent regarding medication with a risk for dependence. The records document the staff's efforts to ensure the patient was well informed of potential problems with medications being provided.

5. CR 09-102 BEDILU WOLDAREGAY, M.D.

Dr. Dumont moved to dismiss CR 09-102 Bedilu Woldaregay, M.D., with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

This case involves a patient who was admitted after a snowmobile accident in which he suffered significant chest injuries and multiple fractured ribs. He was hospitalized for 9 days and the physician in question only became involved with the care when he took over the Hospitalist Service the day prior to discharge. The patient alleges that he had severe ongoing pain that was not adequately addressed and was discharged still having severe pain. In addition, he was given incomplete and confusing discharge instructions and incomplete prescriptions.

A thorough review of the chart essentially verifies the patient's allegations. The patient had his pain medications changed less than 4 hours prior to discharge and still needed supplemental intravenous medications just prior to discharge.

The letter of guidance will address the importance of adequately addressing pain issues and importance of thorough documentation.

6. CR 09-483

Ms. Clukey moved to dismiss CR 09-483. Ms. Holmes seconded the motion, which passed unanimously.

In November 2009, the Board issued a complaint against this physician alleging unprofessional conduct and incompetence in prescribing practices. The physician explained her relationship with, and sent the medical records of the two patients in question. Her explanation and the medical records support her claim that the prescriptions were appropriate. She also stated that the one prescription allegedly written for herself was a forgery. She sent a copy of her signature for verification.

In January 2010, the Board voted to investigate further after reviewing an Assessment and Direction and receiving new information alleging further unprofessional prescribing practices. Board staff was asked to interview the pharmacist and provide a copy of the memo of the conversation he allegedly had with the complainant and to investigate any additional prescription records. The pharmacist stated the conversation never took place and he had no additional information.

7. CR 09-498

Dr. Dumont moved to order an Informal Conference in the matter of CR 09-048. Dr. Jones seconded the motion, which passed unanimously.

8. CR 09-296 ROBERT T. LAFARGUE, M.D.

Dr. Gleaton moved to unset the Adjudicatory Hearing ordered in January 2010 in the matter of CR 09-296. Dr. Dreher seconded the motion, which passed unanimously.

Dr. Gleaton moved to dismiss CR 09-296, Robert T. LaFargue, M.D., with a letter of guidance. Ms. Holmes seconded the motion, which passed unanimously.

This complaint came from a physician who was a co-worker of the physician in a hospital setting. The physician alleged that his fellow physician had had inappropriate relationships with a patient and a nurse on the hospital unit. The hospital conducted a review/investigation of the allegations and the Board reviewed the data as well. There was no substantiated evidence that the physician had an inappropriate relationship with a patient or the nurse. However, the Board wishes to issue a Letter of Guidance to the effect that physicians should not prescribe medications, especially controlled substances, to people with whom they are emotionally involved except in brief emergency situations. The physician indicated to the hospital medical director that he understood and agreed that this was a breach in professional behavior. He explained that he felt that it was an emergency for the nurse to have the medication at the time he prescribed it.

9. CR 08-118 REINALDO O. de los HEROS, M.D. [SEE APPENDIX A ATTACHED]

Dr. Dreher moved to dismiss CR 08-118, clear the Consent Agreement, and grant an unrestricted license. Dr. Dumont seconded the motion, which passed unanimously.

This case questioned whether the physician provided proper care for a complex patient. The physician's reply and subsequent dialogue with the Board raised concerns which were subsequently extensively evaluated. This evaluation clarified the physician's actions and decisions and supported his current ability to practice medicine safely.

10. COMPLAINT MONITORING REPORT - FYI

11. REVIEW DRAFT LETTERS OF GUIDANCE

a. CR 09-009 SHARON MARBLE, M.D. LETTER

Dr. Dumont moved to approve the letter of guidance proposed in the matter of Sharon Marble, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

b. LETTERS TO EYE CARE GROUP

Dr. Gleaton moved to approve the letters of guidance proposed to be sent to the physicians in the Eye Care Group (CR 09-459 Bruce R. Cassidy, M.D., CR 09-460 Jordan E. Sterrer, M.D., CR 09-461 Elizabeth Serrage, M.D., and CR 09-462 William S. Holt, M.D.) Dr. Dumont seconded the motion, which passed unanimously.

c. CR 09-374 JAMES P. WHITE, M.D. LETTER

Dr. Jones moved to approve the letter of guidance proposed in the matter of James P. White, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

12. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

13. CR 10-040 EDWIN G. AVERY, M.D.

Dr. Nyberg moved to dismiss CR 10-040 Edwin G. Avery, M.D., with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

Dr. Avery's response to the Board complaint is satisfactory and convincing. There was an error in his application but no attempt to defraud the Board. The letter of guidance will emphasize the physician's responsibility for complete accuracy in any and all further applications to the Board.

14. CR 09-542

Ms. Clukey moved to dismiss CR 09-542. Ms. Holmes seconded the motion, which passed unanimously.

In this case, the patient complains the physician minimized her chronic pain, treated her disrespectfully, was judgmental, and angry. The physician replied that there was nothing about their interaction that was disrespectful. The physician explained his practice does not offer medical management of chronic pain, but offers consultative and evaluative services to patients whose opioids are no longer effective in managing their pain. The physician outlined treatment options other than chronic narcotics for control of the patient's pain - at which point the patient abruptly terminated the visit.

15. CR 10-007 LUANNA L. BEAUCHAMP, M.D.

Ms. Holmes moved to dismiss CR 10-007, Luanna L. Beauchamp, M.D., with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

This case involves a patient who was late for an initial appointment with a specialist. Unfortunately when the patient arrived at the office she was not able to be seen but was offered a chance to wait or be re-scheduled. The patient complains that she traveled a substantial distance and did not realize she would not be seen if she was late.

The Board reviewed the complaint and the physician's response and found that in fairness to other patients who are waiting to see the doctor, it is reasonable to have office policies about timeliness in reporting for appointments; however, it is also important that patients receive written notice prior to the appointment explaining such office policies, especially when patients have a long distance to travel. The Board will issue a Letter of Guidance to the physician in this regard.

16. CR 10-048 ROLAND H. KNAUSEBERGER, M.D.

Dr. Hatfield moved to dismiss CR 10-048 Roland H. Knauseberer, M.D., with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

The complainant feels that the physician inappropriately touched her in a planned and malicious manner, causing her emotional harm. She further feels that she was billed inappropriately, and also states that the physician refused to release her records when requested. The physician adamantly denies these accusations. A review of the records, as well as the initial complaint and rebuttal, suggests the complainant's thinking might be impaired. The Board cannot know with certainty what happened in the encounter, but the evidence makes it appear very unlikely that inappropriate touching occurred. Billing was found to be appropriate, and no evidence of refusal to release records was found.

17. CR 09-494

Dr. Jones moved to dismiss CR 09-494. Dr. Dreher seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

The patient's wife complains that the physician was rude during an appointment to investigate her husband's shoulder pain. The physician has no recollection of this encounter, which occurred in November 2009, and did not make a note of any communication problem or any dissatisfaction with him during the visit. It is his practice to make such a note when necessary. The medical record is thorough and complete. This appears to be an instance of inadvertent misinterpretation, or misunderstanding of a physician's remarks that were intended to be helpful.

18. CR 09-501

Ms. Holmes moved to dismiss CR 09-501. Dr. Jones seconded the motion, which passed unanimously.

The complaint alleges that the physician failed to provide medical treatment to the patient (the physician's spouse), failed to insist she seek medical treatment elsewhere, and inappropriately attempted to view the patient's medical record. The physician denied the allegations, and provided the Board with documentation that fully corroborates his response and his repeated efforts to encourage and assist the patient to obtain medical care.

19. CR 09-513

Dr. Dumont moved to dismiss CR 09-513. Dr. Gleaton seconded the motion, which passed unanimously.

In this case, the patient complains the physician did not explain or communicate test results, prescribed a toxic dose of a medication, and stated incorrect information about her history. The physician explains how and what test results were reviewed and that she was restating details of

the patient's history which were in the medical record. The physician outlines her prescribing and monitoring of the medication in question, which seems appropriate.

20. CR 09-517

Dr. Jones moved to dismiss CR 09-517. Dr. Dumont seconded the motion, which passed unanimously.

This patient complains about delays in obtaining medication refills and was generally dissatisfied with her medical care. Review of the medical record shows appropriate medical decision-making and care of the patient. The refills required prior authorization from the insurance provider. The doctor requested the authorization on the same day the patient called, and the doctor also suggested some alternative medicines for temporary use.

21. CR 09-538

Dr. Jones moved to hold an Informal Conference in the matter of CR 09-538. Ms. Holmes seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

22. CR 09-539

Dr. Dreher moved to dismiss CR 09-539. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant is the grandfather of the 12-year-old patient. His concern is that the physician mis-diagnosed his grandson, and is not properly trained to administer the medications his grandson is taking, and that his grandson is adversely affected by them. The boy's mother is directly involved in his medical care, but the grandfather is not. The physician responds by saying he is in fact well trained and experienced in this kind of medical care, and that he has sought additional expert consultation and co-treatment as necessary, all with the patient's mother's approval and co-operation. This response is supported by the record.

23. CR 09-543 GLENN S. RAMPE, M.D.

Dr. Hatfield moved to dismiss CR 09-543 Glenn S. Rampe, M.D. with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

The complainant feels that the physician changed his mother's code status to DNR without witnesses or his mother's signature. He states that his mother had on multiple occasions before and after this change expressed a desire to have a full code status. The physician responds that he discussed code status with the patient, and that witnesses or the patient's signature are not needed on the form changing code status.

A review of the records shows an appropriate Treatment Directive form filled out, changing the patient's code status to DNR. However, there is no chart documentation of the discussion taking place with the patient, and the directive form also gives no details of this discussion. There is no

evidence that the patient expressed a desire to change her code status once again after the DNR order was written. The DNR order declares a desire for no cardiopulmonary resuscitation in the event of cardiopulmonary failure, and does not imply that appropriate treatment of medical conditions should not otherwise occur.

A letter of guidance will emphasize the need for documentation of the discussion that occurs with a patient when code status is changed.

24. CR 09-544

Dr. Dreher moved to dismiss CR 09-544. Ms. Holmes seconded the motion, which passed unanimously.

The physician in this case had seen the patient only once in consultation for a chronic illness. She focused on treating the underlying problem rather than providing symptomatic care. There was a mild adverse interaction from this physician's change of a medication dose and the physician could have done a better job separating her other frustrations from the interaction with the patient. The physician did provide a prescription for the patient when he could not get it from his primary care provider and was trying to provide appropriate consultative care.

25. CR 09-568 [Tabled to next meeting.]

26. CR 10-011

Dr. Jones moved to investigate further CR 10-011. Dr. Dreher seconded the motion, which passed unanimously.

27. CR 10-039 [Tabled to next meeting.]

28. CR 10-046 [Tabled to next meeting.]

29. CR 10-047 [Tabled to next meeting.]

30. CR 10-049 [Tabled to next meeting.]

31. CR 10-050 [Tabled to next meeting.]

32. CR 10-051 [Tabled to next meeting.]

33. CR 10-054 [Tabled to next meeting.]

34. CR 10-063 [Tabled to next meeting.]

35. CR 10-064 [Tabled to next meeting.]

- 36. CR 10-071 [Tabled to next meeting.]
- 37. CR 10-077 [Tabled to next meeting.]
- 38. CR 10-079 [Tabled to next meeting.]
- 39. CR 10-090 STEPHEN H. NIGHTINGALE, M.D.

Dr. Gleaton moved to dismiss CR 10-090 Stephen H. Nightingale, M.D., with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

This physician was prescribing medication including controlled substances to his wife and brother. The Board regards this as a breach in professional conduct, especially when not combined with proper office notes and documentation. The physician, after reading the Code of Ethics of the American Medical Association, Section 8.19, concurs that he was wrong to prescribe medications to his wife. He also agrees that he should not have been her treating physician, and he has discontinued the behavior. She is being treated by an internist currently. He will also cease continuing care for his brother, even though the treatment in his case was combined with reasonable chart documentation.

- 40. CR 10-092 MARK A. SPEAR, M.D.

Dr. Nyberg moved to order an Adjudicatory Hearing in the matter of CR 10-092 Mark A. Spear, M.D. and authorize legal counsel to negotiate a Consent Agreement. Dr. Dumont seconded the motion, which passed unanimously.

- 41. CR 10-096

Dr. Dumont moved to dismiss CR 10-096. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

This complaint involves an allegation that the orthopedic surgeon tried to deceive the patient in an attempt to convince him to have surgery. The patient had been involved in a motor vehicle collision and had a head injury and cervical spine fracture. CT (Computerized Axial Tomography) scanning initially showed the spine to be stable but at the first office visit subsequent to hospital discharge there was noted to be a slight increase in subluxation. The patient was advised that if this got worse he might require surgery. The patient was carefully followed for several additional visits and the subluxation remained stable. Review of the records indicates appropriate care and follow-up, although the patient may have misunderstood the physician's concerns about a potential need for surgery.

IV. ASSESSMENT & DIRECTION

- 42. AD 09-550

Dr. Dreher moved to file AD 09-550. Dr. Nyberg seconded the motion, which passed unanimously.

43. AD 10-061

Dr. Gleaton moved to issue a complaint in the matter of AD 10-061 (CR 10-205). Dr. Jones seconded the motion, which passed unanimously.

44. AD10-088

Dr. Jones moved to issue a complaint in the matter of AD 10-088 (CR 10-206). Dr. Dreher seconded the motion, which passed unanimously.

45. AD 10-156

Dr. Gleaton moved to issue a complaint in the matter of AD 10-156 (CR 10-207). Dr. Dumont seconded the motion, which passed unanimously.

46. AD 10-172

Dr. Jones moved to table AD 10-172. Ms. Clukey seconded the motion, which passed unanimously.

47. AD 10-187

Dr. Dreher moved to issue a complaint in the matter of AD 10-187 (CR 10-208). Ms. Clukey seconded the motion, which passed 7-1.

48. AD 10-167

Dr. Jones moved to table AD 10-167 and to authorize the Board Secretary to file AD 10-167 or carry it forward as appropriate after he reviews a report from staff. Dr. Dumont seconded the motion, which passed unanimously

V. INFORMAL CONFERENCE(S) (NONE)

NOON MEAL
PUBLIC SESSION

VI. MINUTES OF MARCH 9, 2010

Dr. Dumont moved to approve the minutes of March 9, 2010, as written. Dr. Gleaton seconded the motion, which passed unanimously.

VII. NEW BUSINESS (NONE)

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENT & APPROVAL

1. CR 09-220 LINDA KENISTON-DUBOCQ, M.D. [APPENDIX B SEE ATTACHED]

Dr. Dreher moved to approve the Consent Agreement in the matter of Linda Keniston-Dubocq, M.D. Dr. Nyberg seconded the motion, which passed unanimously.

C. APRIL 2010 MONITORING COMPLIANCE REPORT (FYI)

IX. ADJUDICATORY HEARING 1:00 p.m.

A. CR 08-315 ELLEN E. MICHALOWSKI, M.D.

An Adjudicatory Hearing in the matter of Ellen E. Michalowski, M.D. was convened at 2:17 p.m. At 8:06 p.m. the hearing adjourned and was continued to the next meeting of the Board, due to the lateness of the hour.

X. REMARKS OF CHAIRMAN

A. CHAPTER 11 RULES FOR REPEAL

Dr. Gleaton moved to repeal the Board's joint Chapter 11 Rule: Use of Controlled Substances for the Treatment of Pain. Dr. Dumont seconded the motion, which passed unanimously.

B. CHAPTER 21 PROPOSED JOINT RULES, BASIS STATEMENT & RESPONSE TO COMMENTS

Dr. Gleaton moved to adopt Chapter 21 Rule: Use of Controlled Substances for the Treatment of Pain, along with the Basis Statement and Response to Comments. Dr. Dumont seconded the motion, which passed unanimously.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the monthly report of the Executive Director.

A. COMPLAINT STATUS REPORT (FYI)

B. POLICY REVIEW

1. BOARD LISTS (FYI)

2. MEDICAL ETHICS (FYI)

3. SELF PRESCRIBING (FYI)

C. REVIEW OF OSTEOPATHIC CHAPTER 2 RULE

The review of the Osteopathic Chapter 2 Rule was tabled and will be carried forward to next month.

D. IN HOME EKG REQUEST

Board staff was contacted by Ali Hilt-Lash from Department of Human Services (DHHS), Division of Licensing and Regulatory Services, Medical Facilities to ask if the Board would offer an opinion on in home EKG services prior to their licensing an entity. Caring Way, Inc. of York, Maine proposed to offer an in home EKG service and is seeking licensure from DHHS.

The Board's opinion is that in home EKGs be allowed, but only when ordered by and read by a physician.

XII. MEDICAL DIRECTOR'S REPORT

A. EMR (ELECTRONIC MEDICAL RECORDS) ERRORS (FYI)

XIII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIII SECRETARY'S REPORT

A, LIST A

1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Dumont moved to ratify the Board Secretary's approval of the physicians on List A.
Dr. Dreher seconded the motion, which passed unanimously.

The following M.D. license applications have been approved by Board Secretary Gary R Hatfield, MD without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Abidi, Maheen Z.	IM/Infectious Disease	Falmouth
Alkhatib, Ousama	Internal Medicine	Bangor
Bagheri, Baharak, MD	Radiology	Portland
Bagneris, Gina M	Emergency Medicine	Waterville
Bernie, Jan E	Urology	Bangor
Bietry, Raymond E	Internal Medicine	Presque Isle
Blake, Michael S	Emergency Medicine	Lewiston/Auburn

Braxton, Jr., Ernest E	Neurosurgery	Not Listed
Chodkiewicz, Catherine	Internal Medicine/Medical Oncology	EMMC
Crawford, Glen D	Orthopedic Surgery/Sports Medicine	York
Cuddihy, Laury A	Orthopedic Surgery	Skowhegan
Curtis, Rachel L.	Emergency Medicine	Bangor
Dewan, Anil K	Anatomic/Clinical Pathology	York/Cumberland County
Folkemer, Carl T	Internal Medicine	Unknown at this time
Fukunaga, Mayuko	IM/Pulmonary Medicine	Portland
Gagne, Timothy J	Family Medicine	Portland
Geertz, Christopher E	Emergency Medicine	Bangor
Gregor, Henry F	OB/GYN	Calais
Gregorie, William D	Emergency Medicine	Portland
Kulandaivel, Kandan	Neurology	Bangor
Kushner, Floyd H	Ophthalmology	Cape Porpoise/Kennebunkport
Martindale, Madeleine R	Internal Medicine	MMC/Portland
Mehra, Abhishek	Psychiatry/Neurology	To be Determined
Nath, Sujai D	Neurology	Not Listed
Nero, Thomas J	Internal Medicine	Not Listed
Parlin, Susan A	Family Med/Emergency Med	Doesn't know yet
Patri, Murali S	Anesthesiology	Not Listed
Pickering, Jack E	Internal Medicine/Cardiovascular Disease	Telemedicine
Prabakaran, Sushil A	Pediatrics	Machias
Ruff, James E	Psychiatry	Unknown/Locum Tenen
Shah, Shradha P	Emergency Medicine	Bangor
Scherr, Kent J	OB/GYN	York
Scoll, Benjamin J.	Urology	Portland/Mercy Hospital
Scumpert, Terence D.	Radiology	Ellsworth
Sohi, Sukhpreit	Psychiatry	To be Determined
Tang, Christopher M T	Internal Medicine	Not Listed
Teichman, Peter G.	Family Medicine	Bangor

2. PA LIST A LICENSES FOR RATIFICATION

Dr. Dumont moved to ratify the Board Secretary's approval of the physician assistants on List A. Ms. Clukey seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary Gary R Hatfield, MD without reservation

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
David Hamel, PA-C	Active	Joseph Castorina, M.D.	Portland
Elizabeth Muller, PA-C	Active	Joel Wirth, M.D.	South Portland

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. GEORGE H. BUTLERS, M.D.

The Licensure Committee moved that if the physician has reasonable SPEX exam results and accepts a conditional license mandating close supervision by a board certified primary care physician when providing care, the Board will provide a license. The motion passed unanimously.

2. DOUGLAS A. CROSBY, M.D. (no action taken)
3. BABATUNDE JINADU, M.D. (Investigate Further)
4. KELLI MAYFIELD, M.D.

The Licensure Committee moved to approve the license application of Kelli Mayfield, M.D. The motion passed unanimously.

5. MAYBELLE S. WHU, M.D. (Investigate Further)
6. TIMOTHY TOTO PA-C

The Licensure Committee moved to preliminarily deny the license application of Timothy Toto, PA-C, with leave to withdraw the application. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT

1. LIST C (1) APPLICATIONS FOR REINSTATEMENT (NONE)
2. LIST C (2) APPLICATIONS FOR REINSTATEMENT FOR INDIVIDUAL CONSIDERATION
 - a. ELEANOR B. HANDLER, M.D. (Investigate Further)

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)
2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Gleaton moved to approve the licensees on List D (2) to withdraw from registration. Dr. Dreher seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Schnapper, Debbie	016875
Rabinowitz, Antoine	017594

Sasi, Maya	017253
Atherton, Michael	016029
Page, Sherry	017108
Kinback, Rita	017489

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION
INDIVIDUAL CONSIDERATION (NONE)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW

The following physician's licenses lapsed by operation of law effective March 16, 2010.

<u>NAME</u>	<u>LICENSE NO.</u>
Basheera, Hasan	017509
Gardner, Sheila	015622
Jacobson, Payson	004187
Johnson, David	017511
Kirkland, Kent	017367
Klein, Stephen	007096
Lindstrom, Meghan	018044
Long, C.E. III	017605
Louis, Emault	017784
Mallary, Elaine	017318
Marmaduke, David	014402
McDaniel, Holly	014261
Miller, Buell	005878
Oliveto, Eugene	015100
Orlosky, Michael	017223
Prasad, Robin	016421
Shah, Jagdish	007056
Soni, Ranju	016810
Soni, Sandeep	016970
Watson, Timothy	017453
Young, Amanda	017053

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS

G. LIST G RENEWAL APPLICATIONS

1. GARY WEAVER, M.D. (Investigate Further)
2. NEIL NEWTON, M.D. (Investigate Further)
3. CHARLOTTE HOVEY, M.D.

The Licensure Committee moved to renew the license of Charlotte Hovey, M.D. The motion passed 7-1.

4. JOHN JOSEPH, M.D.

The Licensure Committee moved to renew the license of John Joseph, M.D. The motion failed 4-3-1 with Ms. Holmes abstaining.

Dr. Nyberg moved to send the renewal application of John Joseph, M.D. back to the Licensure Committee for further investigation of (1) possible fraud in application and, (2) recommendation for monitoring. Dr. Dumont seconded the motion, which passed 6-2.

H. LIST H DELEGATED PRACTITIONER SCHEDULE II REQUESTS FOR RATIFICATION

1. LIST H (1) DELEGATED PRACTITIONER SCHEDULE II REQUESTS FOR RATIFICATION

Dr. Gleaton moved to ratify the physician assistants on List H (1) for Schedule II privileges. The motion passed 7-0-1 with Dr. Nyberg abstaining.

2. LIST H (2) DELEGATED PRACTITIONER SCHEDULE II REQUESTS FOR INDIVIDUAL CONSIDERATION

a. AMY B. BOSINSKE, PA-C

The Licensure Committee moved to approve the Schedule II privileges for Amy B. Bosinske, PA-C. The motion passed unanimously.

XIV. STANDING COMMITTEE REPORTS

A. ADMINISTRATION, POLICY & RULES COMMITTEE

Ms. Holmes and Dr. Dumont reported the committee met this morning and discussed the future of the committee and reviewed two current policies of the Board.

B. CME, CLINICAL EVALUATION, SPECIAL PROJECTS COMMITTEE

Dr. Gleaton reported the committee met this morning to review the amended Informed Consent Document along with comments from defense attorneys presented through Gordon Smith.

The changes suggested this morning are (1) on the last page, definition of Informed Consent, paragraph 3, "patient gives consent in writing to the major interventions agreed to jointly with the physician," (2) third paragraph, fourth line, "transaction with the responsible

physician,” and (3) in the footnote, in second line (other medical staff PAs, NPs, Physicians in training and others).

The next step would be to send the document to Maine Medical Association, Maine Medical Mutual, Maine Hospital Association, and the Board of Osteopathic Licensure to get their feedback to help strengthen the document.

Dr. Dreher moved to adopt the most recent changes in the Draft Informed Consent Document and send the Draft to Maine Medical Association (MMA), Maine Medical Mutual, Maine Hospital Association, and the Board of Osteopathic Licensure to elicit feedback for consideration. Ms. Holmes seconded the motion, which passed unanimously.

The Committee also discussed dissemination steps including: Board Notes, the web site, copies to the VPs of Medical Affairs, the teaching residency programs, First Fridays, and the MMA annual meeting. Dr. Dumont suggested adding the specialty societies and the Maine chapter of the American College of Surgeons. The goal is to get everyone to collaborate and embrace the document.

C. ETHICS COMMITTEE

Dr. Nyberg presented the latest draft of the Professionalism in Medicine document.

Dr. Dreher moved to accept the Professionalism in Medicine document as a working draft. Dr. Jones seconded the motion, which passed unanimously.

E. LEGISLATIVE & REGULATORY COMMITTEE

Mr. Manning reported the 124th Maine Legislature, Second Regular Session closed April 5, 2010.

F. PUBLIC INFORMATION COMMITTEE

Ms. Clukey reported she had met with the contracted Board Notes editor to iron out glitches in communication and set up a production schedule.

G. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

Dr. Jones asked the Board to keep in mind two issues for discussion at the next meeting: (1) PA owned practices and, (2) blanket prescribing privileges for narcotics.

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

XVII. FSMB MATERIAL (NONE)

XVIII. ADJOURNMENT 8:08 p.m.

Dr. Dumont moved to adjourn. Dr. Gleaton seconded the motion, which passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jean M. Greenwood". The signature is written in black ink and is positioned above the printed name and title.

Jean M. Greenwood, Administrative Assistant
Board Coordinator
Maine Board of Licensure in Medicine

**STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE**

IN RE: Reinaldo O. de los Heros, M.D. CR08-118)))))	TERMINATION OF CONSENT AGREEMENT
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This document terminates a Consent Agreement that became effective July 23, 2009, as amended by the First Amendment to Consent Agreement dated February 2, 2010, regarding conditions and restrictions imposed upon the license to practice medicine in the State of Maine held by Reinaldo O. de los Heros, M.D. The parties to that Consent Agreement were: Reinaldo O. de los Heros, M.D. ("Dr. de los Heros"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General").

BACKGROUND

1. On July 23, 2009, the parties entered into a Consent Agreement that imposed conditions and restrictions upon the Maine medical license held by Dr. de los Heros following an informal conference with him regarding complaint CR08-118. One of the conditions of the Consent Agreement required Dr. de los Heros to undergo a neuropsychiatric evaluation pursuant to 32 M.R.S.A. § 3286.

2. On December 8, 2009, the Board reviewed a request from Dr. de los Heros to amend the Consent Agreement. Following its review, the Board voted to offer him an amendment to the Consent Agreement based upon his compliance and the positive reports from his physician

monitor.

3. On February 2, 2010, the parties entered into a First Amendment to Consent Agreement.

4. On March 9, 2010, the Board reviewed the neuropsychiatric evaluation regarding Dr. de los Heros, and requested information from him about whether he would follow the recommendations of the evaluator.

5. On April 13, 2010, the Board reviewed information received from Dr. de los Heros indicating that he would comply with all recommendations of the evaluator. In addition, the Board reviewed information submitted by Dr. de los Heros regarding Complaint CR08-118. Following its review, the Board voted to terminate the Consent Agreement dated July 23, 2009 as amended by the First Amendment to Consent Agreement dated February 2, 2010. In addition, the Board voted to dismiss Complaint CR08-118.

COVENANT

6. Effective April 13, 2010, Dr. de los Heros, the Board, and the Office of Attorney General hereby agree to terminate the Consent Agreement that became effective July 23, 2009, as amended by the First Amendment to Consent Agreement dated February 2, 2010.

I, REINALDO O. DE LOS HEROS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING TERMINATION TO THE CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated:

4/29/10

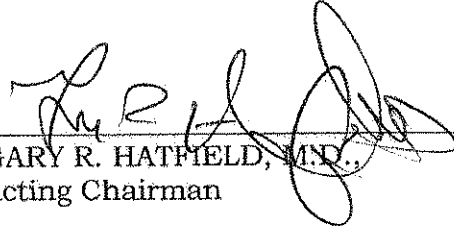


REINALDO O. DE LOS HEROS

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

DATED:

5/11/10

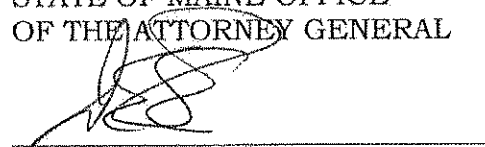


GARY R. HATFIELD, M.D.,
Acting Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

5/11/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date: April 13, 2010

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	
Linda Keniston-Dubocq, M.D.)	CONSENT AGREEMENT
Complaint Nos. CR09-220)	

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against and modifications to and conditions imposed upon the license to practice medicine in the State of Maine issued to Linda Keniston-Dubocq, M.D. The parties to the Consent Agreement are: Linda Keniston-Dubocq, M.D. ("Dr. Keniston-Dubocq"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Keniston-Dubocq has held a license to practice medicine in the State of Maine since February 19, 1987. Dr. Keniston-Dubocq specializes in Family Practice.

2. On or about May 20, 2009, the Board staff learned from a local newspaper that Dr. Keniston-Dubocq had been charged with Operating Under the Influence (O.U.I.) following an accident on March 7, 2009, in which she damaged the front porch of a home in Fairfield, Maine. According to the newspaper report, Dr. Keniston-Dubocq's blood-alcohol content was .20. The Board staff subsequently obtained a copy of the Fairfield Police Department police reports regarding the March 7, 2009, incident. In addition, the Board staff obtained information that Dr. Keniston-Dubocq had been previously convicted of O.U.I. in 1999.

3. On June 9, 2009, the Board reviewed the information provided by the Office of Attorney General and, pursuant to 32 M.R.S. § 3282-A, voted to initiate a complaint against Dr. Keniston-Dubocq's Maine medical license alleging unprofessional conduct and habitual substance abuse that was foreseeable likely to result in Dr. Keniston-Dubocq performing services in a manner that endangered the health or safety of patients. The Board docketed the complaint as CR09-220.

4. On or about August 3, 2009, the Board received a response from Dr. Keniston-Dubocq to complaint CR09-220. In her response, Dr. Keniston-Dubocq admitted that she had been convicted of O.U.I. in 1999, and that she had been evaluated at that time by the Maine Medical Association's Physicians Health (P.H.P.) and determined not to need enrollment in that program. According to Dr. Keniston-

Dubocq, both she and the P.H.P. concluded that the O.U.I. was an isolated event not related to a possible diagnosis of alcoholism but to personal psycho-social stressors. According to Dr. Keniston-Dubocq, the 2009 O.U.I. was a "wake-up call" that led her to realize that she had a problem with alcohol. As a result, Dr. Keniston-Dubocq voluntarily participated in an extensive substance abuse evaluation, long-term residential treatment program, and is currently and actively participating in recovery with the Maine Medical Association's Medical Professionals Health Program (M.P.H.P.), and engaging in other activities in support of her recovery. According to Dr. Keniston-Dubocq, she has returned to work and has the support of her employer.

5. On September 8, 2009, the Board reviewed complaint CR09-220. Following its review, the Board voted to schedule the complaint for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement to resolve complaint CR09-220 without hearing.

6. Absent Dr. Keniston-Dubocq's acceptance of this Consent Agreement by signing and dating it in front of a notary and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 13, 2010, the matter shall be scheduled for an adjudicatory hearing at a later date.

8. By signing this Consent Agreement, Dr. Keniston-Dubocq waives, in her personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on April 13, 2010. Dr. Keniston-Dubocq waives, in her personal capacity and through legal counsel, forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

9. Dr. Keniston-Dubocq admits, based upon the evidence in possession of the Board that with regard to complaint CR09-220, the Board has sufficient evidence from which it could reasonably conclude that Dr. Keniston-Dubocq engaged in habitual substance abuse that was foreseeably likely to result in her performing services in a manner that endangered the health or safety of patients. Dr. Keniston-Dubocq acknowledges that such conduct constitutes grounds for discipline of her Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(B).

DISCIPLINE/CONDITIONS OF LICENSURE

10. In light of the admissions in paragraph 9 above, as well as Dr. Keniston-Dubocq's acceptance of responsibility, her efforts to seek treatment and her commitment to refrain from the use of alcohol and to maintain a healthy and continuous recovery, the Board agrees to impose and Dr. Keniston-Dubocq agrees to accept the following discipline:

a. A LICENSE PROBATION of five (5) years with the following conditions, which shall remain in place for five (5) years following the execution of this Consent Agreement unless this Consent Agreement is first amended or rescinded by agreement of all of the parties hereto:

(1). ABSTINENCE. Dr. Keniston-Dubocq agrees that, following the execution of this Consent Agreement, she shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; Fentanyl; morphine, Demerol, Vicodin, Percocet, mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for her by anyone other than a single primary care physician pursuant to paragraph 10(a)(4)(c) of this Consent Agreement, unless the circumstances constitute a genuine medical or surgical emergency.

(a). Prescription Medication. If any controlled drug is dispensed or prescribed for Dr. Keniston-Dubocq for a personal medical condition, Dr. Keniston-Dubocq or the Supervising Physician shall notify the Board by telephone and in writing within 48 hours or as soon thereafter as possible. This notice shall be followed by a written summary of all pertinent circumstances. The Board shall be apprised of all continuing pertinent circumstances regarding continued use of the controlled drug, and a written report thereof shall be submitted to the Board.

(b). Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Keniston-Dubocq agrees and understands that any reliable evidence of her use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives, hypnotics, opiates, Fentanyl, morphine, Demerol, or alcohol, shall constitute a violation of this Consent Agreement, which **SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.**

(2). SINGLE PHYSICIAN. Dr. Keniston-Dubocq agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to her by her Board-approved treating psychiatrist, she shall only obtain her prescription medication(s) from a single primary care physician approved by the Board pursuant to paragraph 10(a)(c)(4) below. Dr. Keniston-Dubocq agrees and understands that she will not make any unilateral changes to the medication regimen prescribed for her by her Board approved primary care physician. In addition, Dr. Keniston-Dubocq agrees that any and all prescriptions for medications that are prescribed to her by her Board-approved primary care physician and psychiatrist shall be filled by her in the State of Maine and at a single pharmacy.

(3). SUBSTANCE MONITORING.¹ Dr. Keniston-Dubocq understands and agrees that, for the duration of this Consent Agreement, she will undergo some level of substance monitoring to test whether she has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. Keniston-Dubocq irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Keniston-Dubocq shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to her substance monitoring.

(a). Supervising Physician. Dr. Keniston-Dubocq shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. Keniston-Dubocq provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Keniston-Dubocq fail to appear and/or provide a urine sample for testing as required by this Consent Agreement.

(b). Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to opiates (ie. Fentanyl, morphine, Demerol).

(c). Frequency of Urine Testing. It is Dr. Keniston-Dubocq's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Dr. Keniston-Dubocq

¹ The substance abuse monitoring pursuant to this Consent Agreement may, at the approval of the Board, be performed by the Medical Professionals Health Program.

to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. Keniston-Dubocq's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. Keniston-Dubocq or a patient) exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Consent Agreement, Dr. Keniston-Dubocq shall provide urine samples for testing for the presence of Prohibited Substances at least once a week.

(d). Reporting Test Results. It is Dr. Keniston-Dubocq's responsibility to ensure that all test results are reported promptly to the Board.

(i). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(ii). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Dr. Keniston-Dubocq shall ensure that all reports are made to the Board in a timely fashion.

(iii). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. Keniston-Dubocq hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement. Dr. Keniston-Dubocq shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

(e). Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. Keniston-Dubocq. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, be sufficient to prove the use of the Prohibited Substance by Dr. Keniston-Dubocq. Dr. Keniston-Dubocq further agrees that the result of the test may be admitted into evidence in any proceeding regarding her Maine medical license, whether before the Board or before a Court of competent jurisdiction. Dr. Keniston-Dubocq is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Keniston-Dubocq agrees to refrain from ingesting poppy seeds in any food substances,

mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. Keniston-Dubocq has a positive screen for morphine, opiates and/or alcohol, Dr. Keniston-Dubocq agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen.

(f). Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance – including a positive result for the presence of ethyl glucuronide, a metabolite of alcohol), then the result shall be the immediate, indefinite, automatic suspension of Dr. Keniston-Dubocq's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Dr. Keniston-Dubocq receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(g). Board Hearing to Determine if Dr. Keniston-Dubocq Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Keniston-Dubocq of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Keniston-Dubocq. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Keniston-Dubocq and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(h). Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Keniston-Dubocq: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(i). Report. If Dr. Keniston-Dubocq fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Dr. Keniston-Dubocq must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(ii). Second Opportunity to Provide Urine Sample. If Dr. Keniston-Dubocq appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second

opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(iii). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Keniston-Dubocq to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. Keniston-Dubocq actually learns a report has been made or sent to the Board.

(iv). Meeting with Board. Both Dr. Keniston-Dubocq and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(v). Board Action. The Board may order Dr. Keniston-Dubocq's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

(i). Amendment of Testing Provisions. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement, Dr. Keniston-Dubocq may file a written application with the Board to amend the testing conditions. Upon written application by Dr. Keniston-Dubocq to the Board, the Board may amend the above agreed conditions for testing. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. Keniston-Dubocq.

(j). Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement, and may also add an additional four random tests per month. Any decision made by the

Board pursuant to this paragraph does not require a hearing and is not appealable.

(4). PROFESSIONAL MANAGEMENT.

(a). Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Keniston-Dubocq shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Keniston-Dubocq shall consult and counsel for the purpose of working on all issues pertaining to her substance abuse issues, including Dr. Keniston-Dubocq's compliance with this Consent Agreement, which consultations shall be at least twice monthly following the execution of this Consent Agreement.

(b). Mental Health Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Keniston-Dubocq shall submit for Board approval the name of a licensed individual or agency in the treatment of mental health issues with whom Dr. Keniston-Dubocq shall consult and counsel for the purpose of working on all issues pertaining to her mental health issues. The Board in its discretion may approve the same individual approved by the Board to provide Dr. Keniston-Dubocq with substance abuse treatment to provide her with mental health treatment pursuant to this paragraph. The therapy sessions shall occur at least monthly and continue until the therapist notifies the Board that treatment is no longer necessary or useful. The Board, in its sole discretion, will determine whether cessation of therapy is appropriate.

(c). Single Primary Care Physician. Within thirty (30) days following the execution of this Consent Agreement, Dr. Keniston-Dubocq shall submit for Board approval the name of a primary care physician who shall prescribe all necessary medications for Dr. Keniston-Dubocq, and who shall coordinate Dr. Keniston-Dubocq's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable of Dr. Keniston-Dubocq's medical history, including her substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care physician proposed by Dr. Kenniston-Dubocq. Dr. Keniston-Dubocq acknowledges that any decision by the Board concerning this issue is not appealable.

(d). Prior Evaluation and Treatment Records. The Board and Dr. Keniston-Dubocq agree that Dr. Keniston-Dubocq shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board approved primary care physician and Board-approved treatment provider(s).

(e). Communication of Treatment Providers. The Board and Dr. Keniston-Dubocq agree that all treatment providers involved in her care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Dr. Keniston-Dubocq waives any privileges concerning such information, reports, records, and communications among her treatment providers and the Board.

(f). Amendment of Aftercare Treatment Requirements. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Dr. Keniston-Dubocq may file a written application with the Board to amend her substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Keniston-Dubocq acknowledges that any decision by the Board concerning this issue is not appealable.

(g). Change of Primary Care Physician or Treatment Provider(s). If Dr. Keniston-Dubocq desires to change her primary care provider or treatment provider(s), then she shall make written application to the Board, including among other things a letter regarding her reasons for requesting such change(s) and separate letters from the current primary care physician or treatment provider(s) and the proposed new primary care physician or treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Dr. Keniston-Dubocq acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Keniston-Dubocq from proposing another primary care physician or treatment provider for approval. In requesting a change of primary care physician or treatment provider, Dr. Keniston-Dubocq understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care physician or treatment provider(s).

(h). Reports from Treatment Providers. Dr. Keniston-Dubocq shall ensure that on or before January 9th, April 9th, July 9th, and October 9th of each year following the execution of this Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Dr. Keniston-Dubocq's compliance with her schedule of meetings; Dr. Keniston-Dubocq's ability to continue practicing medicine; and the prognosis of Dr. Keniston-Dubocq's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Dr. Keniston-Dubocq poses a potential danger to the health, safety and welfare of patients; or (2) Dr. Keniston-Dubocq terminates treatment or is non-compliant with the treatment plan. Dr. Keniston-Dubocq hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

(i). Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Keniston-Dubocq and/or the Board-approved treatment providers to obtain further information relative to Dr. Keniston-Dubocq. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Keniston-Dubocq's treatment. In complying with this requirement, Dr. Keniston-Dubocq waives any privileges concerning such information, reports, records and disclosures to the Board. Dr. Keniston-Dubocq shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with her treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

(5). PROFESSIONAL OVERSIGHT.

(a). Clinical Setting Inspections. During the period of probation, Dr. Keniston-Dubocq shall provide the Board with all locations where she practices medicine. In addition, Dr. Keniston-Dubocq shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where she practices medicine. Dr. Keniston-Dubocq shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.

(b). Physician Monitor. Within thirty (30) days following the execution of this Consent Agreement, Dr. Keniston-Dubocq must have a Board-approved practice monitor who shall monitor her medical practice. In complying with this requirement, Dr. Keniston-Dubocq shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Keniston-Dubocq and observe her within her medical practice at least once a week, and inform the Board if Dr. Keniston-Dubocq demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, drug abuse, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Keniston-Dubocq understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Keniston-Dubocq shall permit the monitoring physician full access to her medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Keniston-Dubocq's medical practice on or before January 9th, April 9th, July 9th, and October 9th of each year following the execution of this Consent Agreement.

(6). SELF-HELP GROUP MEETINGS.

(a). Attendance at AA and NA. Dr. Keniston-Dubocq agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement.

(b). Impaired Physicians Self-Help Group. Dr. Keniston-Dubocq agrees that she shall attend self-help group meetings of an impaired medical professional group (i.e. Caduceus), on a regular basis for the term of this Consent Agreement. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

(c). Reports of Attendance. Dr. Keniston-Dubocq shall submit a signed, written quarterly report of her attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the execution of this Consent Agreement. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

(d). Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Dr. Keniston-Dubocq's Maine medical license.

(7) MAINTENANCE OF OBLIGATIONS WHEN AWAY

(a). General. Dr. Keniston-Dubocq agrees to maintain her obligations regarding substance monitoring and self-help group meetings at all times, including times when she is away from home but within the continental limits of the United States. Dr. Keniston-Dubocq will notify the Director of the Medical Professionals Health Program sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before she leaves. It shall be Dr. Keniston-Dubocq's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of her obligations under this Consent Agreement. Any such occurrences shall be noted in writing sent to the Board by Dr. Keniston-Dubocq explaining the arrangements made and how the arrangements were carried out.

(b). Failure to Comply. Any failure by Dr. Keniston-Dubocq to meet the conditions of the Consent Agreement outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Dr. Keniston-Dubocq's Maine medical license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

(8). INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Dr. Keniston-Dubocq has entered into a contract with the Maine Medical Professionals Health Program and shall fully participate in that program as long as this Consent Agreement remains in force.

(9). MAINTAINENCE OF LICENSE.

Dr. Keniston-Dubocq shall be required to maintain her Maine license to practice medicine for as long as this Consent Agreement remains in effect. In the event that Dr. Keniston-Dubocq applies for licensure in other jurisdictions during the term of this Consent Agreement, Dr. Keniston-Dubocq shall notify said jurisdiction of the existence of this Consent Agreement.

(10). WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Keniston-Dubocq agrees and understands that the Board and the Department of Attorney General shall have complete access to her present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Keniston-Dubocq for substance abuse and mental health issues. Dr. Keniston-Dubocq waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Keniston-Dubocq agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

11. SANCTION FOR VIOLATION OF CONSENT AGREEMENT.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Consent Agreement as described above by Dr. Keniston-Dubocq shall result in the immediate, indefinite and automatic suspension of Dr. Keniston-Dubocq's Maine medical license. The automatic suspension of Dr. Keniston-Dubocq's Maine medical license shall become effective at the time that she receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Dr. Keniston-Dubocq's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Keniston-Dubocq and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Dr. Keniston-Dubocq acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), her failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for disciplinary action against her Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking her license.

12. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. Keniston-Dubocq shall have her supervising physician, monitoring physician and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Dr. Keniston-Dubocq shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at her Board-approved medical practice locations and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Dr. Keniston-Dubocq agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement, and she shall send a copy of the updated signature page to the Board.

Dr. Keniston-Dubocq shall provide a copy of this Consent Agreement to any hospital or medical practice with whom she becomes affiliated.

13. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

(i). Notice to the Board:

State of Maine Board of Licensure in Medicine
Attention: Board Investigator
137 State House Station
Augusta, Maine 04333-0137
Telephone: (207) 287-3601

(ii). Notice to the Licensee:

Linda Keniston-Dubocq, M.D.
246 Kennedy Memorial Drive
Suite 202
Waterville, ME 04901-4557

b. Address Change. If Dr. Keniston-Dubocq changes jobs, moves her residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, she shall provide written notice to the Board within ten (10) days of any such change. In addition, Dr. Keniston-Dubocq shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the conditions of this Consent Agreement shall be borne by Dr. Keniston-Dubocq. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Keniston-Dubocq to reimburse the Board for all actual costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

14. DURATION OF CONSENT AGREEMENT.

Dr. Keniston-Dubocq understands and agrees that the duration of this Consent Agreement is five (5) years from July 23, 2009. The probation and conditions imposed by this Consent Agreement shall remain in effect for five (5) years from July 23, 2009, until or unless amended or rescinded in writing by the parties hereto.

15. AMENDMENT OF CONSENT AGREEMENT.

Dr. Keniston-Dubocq waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Keniston-Dubocq agrees that this Consent Agreement is a final order resolving complaint CR09-220, and is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments to this Consent Agreement by Dr. Keniston-Dubocq shall be made in writing and submitted to the Board. Dr. Keniston-Dubocq shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Keniston-Dubocq's request; (b) grant Dr. Keniston-Dubocq's request; and/or (c) grant Dr. Keniston-Dubocq's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Keniston-Dubocq's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

16. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Dr. Keniston-Dubocq's practice or any other matter relating to this Consent Agreement.

17. PUBLIC RECORD. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

18. REPORTABLE DISCIPLINE. This Consent Agreement constitutes disciplinary action, and is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions.

19. ADVICE OF COUNSEL. Dr. Keniston-Dubocq has had an opportunity to consult with legal counsel regarding the terms and conditions of this Consent Agreement.

20. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Dr. Keniston-Dubocq waives her right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Keniston-Dubocq agrees that this Consent Agreement is a final order resolving complaint CR09-220, and that it is not appealable and is effective until modified or rescinded in writing by the parties hereto.

I, LINDA KENISTON-DUBOCQ, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I HAVE HAD AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THIS CONSENT AGREEMENT. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 4/12/10 Linda Keniston-Dubocq M.D.
LINDA KENISTON-DUBOCQ, M.D.

STATE OF Maine
Kennebec, S.S.

Personally appeared before me the above-named Linda Keniston-Dubocq, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.


DATED: 4-12-2010 Ruth E. Lemieux
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: _____

RUTH E. LEMIEUX
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 13, 2013

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

4/27/10




GARY R. HATFIELD, M.D., Acting
Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

4/30/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

4/30/10